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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,794	03/19/2004	Delbert L. Austin	Austin 4.1-1	8880

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,794

Applicant(s)

AUSTIN ET AL.

Examiner

Todd M. Epps

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/19/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 58-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-30, 32-46, and 48-57 is/are rejected.
- 7) ☒ Claim(s) 9, 31 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>8/8/2005</u> . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/6/2004</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This is the first Office Action for serial number 10/804,794, Stabilizing Device, filed on March 19, 2004.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-57, drawn to apparatus, classified in class 248, subclass 187.1.
- II. Claims 58-79, drawn to methods, classified in class 463, subclass 36.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II are related as apparatus and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the apparatus as claimed can be practiced with another materially different apparatus or (2) the apparatus as claimed can be used in a materially different process of using that apparatus (MPEP § 806.05(h)). In the instant case, it can be used as camera stand.

During a telephone conversation with Mary M. Moyne on 8/8/05 a provisional election was made without traverse to prosecute the invention of group I, claims 1-57. Affirmation of this election must be made by applicant in replying to this Office action. Claims 58-79 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28, line 1, the number "29" should be changed to --27--.

Claim 29 is rejected as depending on rejected claim 28.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the object (fig. 1), legs (12-13) having a first end and a second end with first damping material (54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), side arms (38-39) having a first end and a second end with second damping material (88) between the ends, and connected at the

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first end to the bracket (11); the forward arms (34-35) having a first end and a second end forming a longitudinal axis of the forward arm, is connected at the first end to the bracket (11), the forward arms having third damping material (20) between ends; the ends of each leg (12-13) form a longitudinal axis of each leg and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of the forward arm (34-35); the longitudinal axis of the forward arm (34-35) is parallel to the longitudinal axis of the object (fig. 1); the third damping material (20) is spaced apart from the first end of the forward arm (34-35); a forward arm (34-35) connected to the bracket (11), the forward arms (34-35) extend outward from the bracket (11) along the object (fig. 1); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39), and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); a plate (30) pivotably connected to the bracket (11), and wherein the legs (12-13) are connected to the bracket (11), and the object (fig. 1) is connected to the plate (30); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); one of the side arms (38) is connected to the first leg (14) of the bracket (11), and the other of the side arms (39) is connected to the second leg (15) of the bracket (11); the first damping material (55,57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having

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different damping characteristics (fig. 5-8); the second damping material (88) spaced apart from the first ends of the side arms (38-39).

Claims 15- 25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the object (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), side arms (38-39) having a first end and a second end with second damping material (88) between the ends, and connected at the first end to the bracket (11); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39) form a longitudinal axis of each side arm and wherein the longitudinal axis of one of the leg (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); the legs (12-13) are pivotably connected to the bracket (11); a plate (30) pivotably connected to the bracket and wherein the firearm (fig. 1) is connected to the plate (30) so that the firearm (fig. 1) can be pivoted while the legs (12-13) remain stationary; the second damping material (88) is spaced apart from the first ends of the side arms (38-39); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); one of the side arms (38) is connected to the first

leg (14) of the bracket (11), and the other of the side arms (39) is connected to the second leg (15) of the bracket (11); the first damping material (45, 55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); the second ends of the legs (12-13) are provided with feet (45) constructed of a third damping material, and the feet (45) are constructed of a rubber material (fig. 7), which grips the surface.

Claims 27- 30, and 32-38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), the forward arms (34-35) having a first end and a second end forming a longitudinal axis of the forward arms (34-35) with the first end of the forward arms (34-35) connected to the bracket (11), and having second damping material (20) between the ends; the ends of each leg (12-13) form a longitudinal axis of each leg form a longitudinal axis of each leg and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the forward arms (38-39); the legs (12-13) are pivotably connected to the bracket (11); the bracket (11) includes a plate (30) pivotably connected to a bracket (11), the legs (12-13) are connected to the bracket sections (14-15) of the bracket (11) and the firearm (fig. 1) is connected to the plate (30) of the bracket (11); the

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longitudinal axis of the forward arms (38-39) is parallel to a longitudinal axis of a barrel of the firearm (fig. 1); the second damping material (20) is spaced apart from the first end of the forward arms (38-39); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), wherein the forward arms (38-39) are mounted on center portion (19) of the bracket (11), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); the forward arms (38-39) are connected to the bracket (11) so that when the firearm (fig. 1) is connected to the bracket (11), the forward arms (38-39) extend outward from the bracket (11); the first damping material (45, 55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); the second ends of the legs (12-13) are provided with feet (45) constructed of a third damping material (fig. 7).

Claims 40, 42-46, and 48-56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), the side arms (38-39) and connected at the first end to the bracket (11), each side arm having second damping material (88) between the ends, the forward arms (34-35) having a first end and a

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second end and connected to the bracket (11), and having third damping material (20) between the ends.

Regarding claims 42-46, and 48-56, Harris discloses wherein the ends of each leg form a longitudinal axis of each leg (12-13) and the ends of each side arm (38-39) form a longitudinal axis of each side arm (38-39) and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); the ends of each leg form a longitudinal axis of each leg and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of the forward arms (34-35); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39) form a longitudinal axis of each side arm and the ends of the forward arm (34-35) form a longitudinal axis of the forward arm and wherein the longitudinal axis of one of the legs (12-13) is approximately at a 90 degrees angle to the longitudinal axis of one of the side arms (38-39) and approximately at an 80 degrees angle to the longitudinal axis of the forward arms (34-35); the legs (12-13) are pivotably connected to the bracket (11); the bracket (11) includes a plate pivotably connected to the bracket section (14-15), and wherein the legs (12-13) are connected to the bracket section (14-15) of the bracket (11) and the firearm (fig. 1) is connected to the plate (30); the side arms (38-39) are connected to the bracket section (14-15); the longitudinal axis of the forward arms (38-39) is parallel to a longitudinal axis of a barrel (fig. 1) of the firearm; the second damping material (88) is spaced apart from the first end of the side arms (38-39); the third damping material (20) is spaced apart from the first end of the forward arms (34-

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35); the bracket (11) includes a first leg (14) and second leg (15) connected together at an angle by a center portion (19), wherein the forward arm (34-35) is mounted on the center portion (19) of the bracket (11) and wherein each of the legs and each of the side arms is connected to the first and second legs (14-15) of the bracket (11); the forward arm (34-35) are connected to the bracket (11) so that when the firearm (fig. 1) is mounted on the bracket, the forward arms (34-35) extend outward from the bracket (11) along a barrel of the firearm in a direction opposite a stock of the firearm; the first damping material (55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); a plurality of forward arms (34-35), and are spaced apart and parallel.

Claim 57 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), the side arms (38-39) and connected at the first end to the bracket (11), each side arm having second damping material (88) between the ends, the forward arms (34-35) having a first end and a second end and connected to the bracket (11), and having third damping material (20) between the ends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over '620 Patent in view of U.S. Patent No. 6,412,737 B1 to Minagawa. Harris fails to disclose a third leg. Attention is directed to Minagawa reference, which teaches three legs spaced apart approximately 60 degrees about a vertical axis.

Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a bipod assembly as taught by Harris as applied above with three legs spaced apart approximately 60 degrees about a vertical axis by Minagawa, wherein doing so would provide thereof stronger support and more stable.

Allowable Subject Matter

Claims 9, 31, and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach a forward arm connected to the plate.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,912,945 B2 to Ang

U.S. Patent No. 5,711,103 to Keng

U.S. Patent No. 5,454,473 to Hennessey

U.S. Patent No. 4,903,425 to Harris

U.S. Patent No. 4,787,290 to Argon

U.S. Patent No. 4,641,451 to Harris

U.S. Patent No. 4,470,216 to Harris

U.S. Patent No. 4,017,997 to Peterson et al.

U.S. Patent No. 3,703,046 to Barone et al.

U.S. Patent No. 3,327,422 to Harris

U.S. Patent No. 2,991,579 to Lies

U.S. Patent No. 2,436,349 to Adams

U.S. Patent No. 1,890,423 to Teagarden

U.S. Patent No. 1,295,688 to Butler

The above references disclose a structure similar to the applicant's invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
August 12, 2005

A handwritten signature in black ink, appearing to read "A. Jay Wright", with a stylized flourish at the end.